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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,714	03/19/2004	Yuanping Chen	ARL 03-83	4402
21364 7590 08/18/2008 U S ARMY RESEARCH LABORATORY ATTN AMSRL CS CC IP 2800 POWDER MILL RD ADELPHI, MD 207831197				
EXAMINER				
QUACH, TUAN N				
ART UNIT		PAPER NUMBER		
2893				
MAIL DATE		DELIVERY MODE		
08/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/807,714

Applicant(s)

CHEN ET AL.

Examiner

Tuan N. Quach

Art Unit

2893

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-15, 17, 18, 25, 26, 69 and 70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 13-15, 17, 18, 25, 26, 69 and 70 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

This application contains claims directed to the following patentably distinct species :

1. The species of the claimed invention in claims 13-15, 17, 18 regarding a multilayer structure for use in a device for detection of microwave, millimeter, infrared (IR), ultraviolet, X-ray or gamma radiation comprising: a silicon based substrate; and an epitaxial $\text{Cd}_{1-z}\text{Zn}_z\text{X}_x\text{X}'_{1-x}$ film grown on the silicon based substrate by molecular beam epitaxy from multiple material sources where the flux of each of the multiple material sources is controlled under a given set of epitaxial growth conditions including temperature, where X is a chalcogenide selected from the group consisting of S and Se; X' is a higher atomic number chalcogenide relative to X and X' is selected from the group consisting of S, Se and Te; x is a number greater than zero and less than .095; and z is a number greater than or equal to .005 and less than .015, such that $x+z$ is a value less than .10; a radiation sensing $\text{Hg}_{1-y}\text{Cd}_y\text{Te}$ layer grown on the $\text{Cd}_{1-z}\text{Zn}_z\text{X}_x\text{X}'_{1-x}$ film, the $\text{Hg}_{1-y}\text{Cd}_y\text{Te}$ layer being substantially lattice matched to the film, where y is a number between .15 and .35 such that the effects of any mismatch are insignificant to device performance and the surface defect density is less than 500 per centimeter squared.

2. The species of the claimed invention in claims 25 and 26 regarding a $\text{Cd}_{1-z}\text{Zn}_z\text{Se}_x\text{Te}_{1-x}$ film grown by molecular beam epitaxy on a silicon based substrate, where x is a number between zero and one inclusive and z is greater than zero and less than or equal to .02; having an overlayer of $\text{Hg}_{1-y}\text{Cd}_y\text{Te}$ thereon for the detection

infrared radiation, wherein the $\text{Cd}_{1-x}\text{Zn}_x\text{Se}_x\text{Te}_{1-x}$ film is substantially lattice matched to the overlayer of $\text{Hg}_{1-y}\text{Cd}_y\text{Te}$.

3. The species of the claimed invention in claims 69 and 70 regarding a $\text{Cd}_{.97}\text{Zn}_{.03}\text{Se}_{.01}\text{Te}_{.99}$ film grown on a single crystal silicon (2 1 1) oriented based substrate, having an overlayer of $\text{Hg}_{.78}\text{Cd}_{.22}\text{Te}$ thereon, wherein the growth of the $\text{Cd}_{.97}\text{Zn}_{.03}\text{Se}_{.01}\text{Te}_{.99}$ film is substantially lattice matched to the overlayer of $\text{Hg}_{.78}\text{Cd}_{.22}\text{Te}$.

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a

claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Tuan Quach whose telephone number is 571-272-1717. The examiner can normally be reached on M-F from 8:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Davienne Monbleau can be reached on 571-272-1945. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan N. Quach/
Primary Examiner, Art Unit 2893